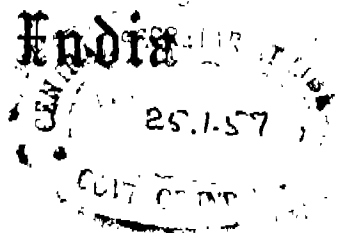


The Gazette



of

India



EXTRAORDINARY

PART II—Section 1

PUBLISHED BY AUTHORITY

No. 85] NEW DELHI, MONDAY, DECEMBER 31, 1956

MINISTRY OF LAW

New Delhi, the 31st December, 1956

The following Acts of Parliament received the assent of the President on the 30th December, 1956, and are hereby published for general information:—

THE SUPPRESSION OF IMMORAL TRAFFIC IN
WOMEN AND GIRLS ACT, 1956

No. 104 OF 1956

[30th December, 1956]

An Act to provide in pursuance of the International Convention signed at New York on the 9th day of May, 1950, for the suppression of immoral traffic in women and girls.

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Suppression of Immoral Traffic in Women and Girls Act, 1956.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of India.

(3) This section shall come into force at once; and the remaining provisions of this Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "brothel" includes any house, room, or place or any portion of any house, room or place, which is used for purposes of prostitution for the gain of another person or for the mutual gain of two or more prostitutes;

(b) "girl" means a female who has not completed the age of twenty-one years;

(c) "magistrate" means a District Magistrate, a Sub-Divisional Magistrate, a Presidency Magistrate, or a Magistrate of the first class specially empowered by the State Government, by notification in the Official Gazette, to exercise jurisdiction under this Act;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "prostitute" means a female who offers her body for promiscuous sexual intercourse for hire, whether in money or in kind;

(f) "prostitution" means the act of a female offering her body for promiscuous sexual intercourse for hire, whether in money or in kind;

(g) "protective home" means an institution, by whatever name called, in which women and girls may be kept in pursuance of this Act and includes—

(i) a shelter where female undertrials may be kept in pursuance of this Act; and

(ii) a corrective institution in which women and girls rescued and detained under this Act may be imparted such training and instruction and subjected to such disciplinary and moral influences as are likely to conduce to their reformation and the prevention of offences under this Act;

(h) "public place" means any place intended for use by, or accessible to, the public and includes any public conveyance;

(i) "special police officer" means a police officer appointed by or on behalf of the State Government to be in charge of police duties within a specified area for the purpose of this Act;

(j) "woman" means a female who has completed the age of twenty-one years.

Punishment
for keeping
a brothel or
allowing pre-
mises to be
used as a
brothel.

3. (1) Any person who keeps or manages, or acts or assists in the keeping or management of, a brothel shall be punishable on first conviction with rigorous imprisonment for a term of not less than one year and not more than three years and also with fine which may extend to two thousand rupees and in the event of a second or subsequent conviction, with rigorous imprisonment for a term of not less than two years and not more than five years and also with fine which may extend to two thousand rupees.

(2) Any person who—

(a) being the tenant, lessee, occupier or person in charge of any premises, uses, or knowingly allows any other person to use, such premises or any part thereof as a brothel, or

(b) being the owner, lessor or landlord of any premises or the agent of such owner, lessor or landlord, lets the same or any part thereof with the knowledge that the same or any part thereof is intended to be used as a brothel, or is wilfully a party to the use of such premises or any part thereof as a brothel,

shall be punishable on first conviction with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees and in the event of a second or subsequent conviction, with rigorous imprisonment for a term which may extend to five years and also with fine.

(3) Notwithstanding anything contained in any other law for the time being in force, on conviction of any person referred to in clause (a) or clause (b) of sub-section (2) of any offence under that sub-section in respect of any premises or any part thereof, any lease or agreement under which such premises have been leased out or are held or occupied at the time of the commission of the offence, shall become void and inoperative with effect from the date of the said conviction.

4. (1) Any person over the age of eighteen years who knowingly lives, wholly or in part, on the earnings of the prostitution of a woman or girl shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

Punishment for living on the earnings of prostitution.

(2) Where any person is proved—

(a) to be living with, or to be habitually in the company of, a prostitute; or

(b) to have exercised control, direction or influence over the movements of a prostitute in such a manner as to show that such person is aiding, abetting or compelling her prostitution; or

(c) to be acting as a tout or pimp on behalf of a prostitute, it shall be presumed, until the contrary is proved, that such person is knowingly living on the earnings of prostitution of another person within the meaning of sub-section (1):

Provided that no such presumption shall be drawn in the case of a son or daughter of a prostitute, if the son or daughter is below the age of eighteen years.

Procuring,
inducing or
taking
woman or
girl for the
sake of pro-
stitution.

5. (1) Any person who—

(a) procures or attempts to procure a woman or girl, whether with or without her consent, for the purpose of prostitution ; or

(b) induces a woman or girl to go from any place, with the intent that she may for the purpose of prostitution become the inmate of, or frequent, a brothel; or

(c) takes or attempts to take a woman or girl, or causes a woman or girl to be taken, from one place to another with a view to her carrying on, or being brought up to carry on prostitution; or

(d) causes or induces a woman or girl to carry on prostitution;

shall be punishable on first conviction with rigorous imprisonment for a term of not less than one year and not more than two years and also with fine which may extend to two thousand rupees.

(2) In the event of a second or subsequent conviction of an offence under this section a person shall be punishable with rigorous imprisonment for a term of not less than two years and not more than five years and also with fine which may extend to two thousand rupees.

(3) An offence under this section shall be triable—

(a) in the place from which a woman or girl is procured, induced to go, taken or caused to be taken or from which an attempt to procure or take such woman or girl is made; or

(b) in the place to which she may have gone as a result of the inducement or to which she is taken or caused to be taken or an attempt to take her is made.

Detaining a
woman or
girl in pre-
mises where
prostitution
is carried
on.

6. (1) Any person who detains any woman or girl, whether with or without her consent,—

(a) in any brothel, or

(b) in or upon any premises with intent that she may have sexual intercourse with any man other than her lawful husband,

shall be punishable on first conviction with rigorous imprisonment for a term of not less than one year and not more than two years and also with fine which may extend to two thousand rupees.

(2) On a second or subsequent conviction for an offence under this section a person shall be punishable with rigorous imprisonment for a term of not less than two years and not more than five years and also with fine which may extend to two thousand rupees.

(3) A person shall be presumed to detain a woman or girl in a brothel or in or upon any premises for the purpose of sexual intercourse with a man other than her lawful husband, if such person, with intent to compel or induce her to remain there,—

(a) withholds from her any jewellery, wearing apparel, money or other property belonging to her, or

(b) threatens her with legal proceedings if she takes away with her any jewellery, wearing apparel, money or other property lent or supplied to her by or by the direction of such person.

(4) Notwithstanding any law to the contrary, no suit, prosecution or other legal proceeding shall lie against such woman or girl at the instance of the person by whom she has been detained, for the recovery of any jewellery, wearing apparel or other property alleged to have been lent or supplied to or for such woman or girl or to have been pledged by such woman or girl or for the recovery of any money alleged to be payable by such woman or girl.

7. (1) Any woman or girl who carries on prostitution, and the person with whom such prostitution is carried on, in any premises which are within a distance of two hundred yards of any place of public religious worship, educational institution, hostel, hospital, nursing home or such other public place of any kind as may be notified in this behalf by the Commissioner of Police or District Magistrate in the manner prescribed, shall be punishable with imprisonment for a term which may extend to three months.

Prostitution in or in the vicinity of public places.

(2) Any person who—

(a) being the keeper of any public place knowingly permits prostitutes for purposes of their trade to resort to or remain in such place; or

(b) being the tenant, lessee, occupier or person in charge of any premises referred to in sub-section (1) knowingly permits the same or any part thereof to be used for prostitution; or

(c) being the owner, lessor or landlord of any premises referred to in sub-section (1), or the agent of such owner, lessor or landlord, lets the same or any part thereof with the knowledge that the same or any part thereof may be used for prostitution, or is wilfully a party to such use,

shall be punishable on first conviction with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both, and in the event of a second or subsequent conviction with imprisonment for a term which may extend to six months and also with fine which may extend to two hundred rupees.

Seducing or
soliciting for
purpose of
prostitution.

8. Whoever, in any public place or within sight of, and in such manner as to be seen or heard from, any public place, whether from within any building or house or not—

(a) by words, gestures, wilful exposure of her person (whether by sitting by a window or on the balcony of a building or house or in any other way), or otherwise tempts or endeavours to tempt, or attracts or endeavours to attract the attention of, any person for the purpose of prostitution; or

(b) solicits or molests any person, or loiters or acts in such manner as to cause obstruction or annoyance to persons residing nearby or passing by such public place or to offend against public decency, for the purpose of prostitution,

shall be punishable on first conviction with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both, and in the event of a second or subsequent conviction, with imprisonment for a term which may extend to one year, and also with fine which may extend to five hundred rupees.

Seduction of
a woman or
girl in cus-
tody.

9. (1) Any person who having the custody, charge or care of any woman or girl, causes or aids or abets the seduction for prostitution of that woman or girl shall be punishable on first conviction with rigorous imprisonment for a term of not less than one year and not more than three years, and also with fine which may extend to one thousand rupees.

(2) In the event of a second or subsequent conviction of an offence under this section a person shall be punishable with imprisonment which may extend to five years and also with fine which may extend to one thousand rupees.

Probation of
good con-
duct and
detention in
protective
home.

10. (1) (a) A person convicted for the first time of any offence under sub-section (2) of section 3, or under section 4, section 5, section 7 or section 8 may, having regard to his age, character, antecedents and the circumstances in which the offence was committed, be released by the court before which he is convicted on probation of good conduct in the manner provided in sub-section (1) of section 562 of the Code of Criminal Procedure, 1898.

5 of 1898.

(b) A person convicted for the first time of any offence under section 7 or section 8 may, having regard to his age, character, antecedents and the circumstances in which the offence was committed, also be released with admonition in the manner provided for in sub-section (1A) of section 562 of the Code of Criminal Procedure, 1898.

5 of 1898.

5 of 1898.

(c) The provisions of sub-section (2), sub-section (3) and sub-section (4) of section 562 and section 563 and section 564 of the Code of Criminal Procedure, 1898, shall apply to cases referred to in clause (a) and clause (b).

(2) Where a woman or girl is convicted of any offence under section 7 or section 8 and is not released under clause (a) of sub-section (1) on probation of good conduct or under clause (b) of that sub-section with admonition, the court convicting the woman or girl may, having regard to the age, character, antecedents of the woman or girl and the circumstances in which the offence was committed, pass in lieu of the sentence of imprisonment or fine, a sentence of detention in a protective home for a period of not less than two years and not more than five years.

5 of 1898.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, or any other law for the time being in force, no person convicted under sub-section (1) of section 3 or under section 6 or section 9 shall be released on probation or with admonition.

11. (1) When any person having been convicted—

Notification
of address
of previously
convicted
offenders.

45 of 1860.

(a) by a court in India of an offence punishable under this Act or punishable under section 363, section 365, section 366, section 366A, section 366B, section 367, section 368, section 370, section 371, section 372 or section 373 of the Indian Penal Code, with imprisonment for a term of two years or upwards; or

(b) by a court or tribunal in any other country of an offence which would, if committed in India, have been punishable under this Act or under any of the aforesaid sections with imprisonment for a like term,

is within a period of five years after release from prison, again convicted of any offence punishable under this Act or under any of those sections with imprisonment for a term of two years or upwards by a court, such court may, if it thinks fit, at the time of passing the sentence of imprisonment on such person, also order that his residence, and any change of, or absence from, such residence, after release be notified according to rules made under section 23 for a period not exceeding five years from the date of expiration of that sentence.

(2) If such conviction is set aside on appeal or otherwise, such order shall become void.

(3) An order under this section may also be made by an Appellate Court or by the High Court when exercising its powers of revision.

(4) Any person charged with a breach of any rule referred to in sub-section (1) may be tried by a Magistrate of competent jurisdiction in the district in which the place last notified as his residence is situated.

Security for
good be-
haviour from
habitual
offenders.

12. (1) When a court convicting a person of an offence under this Act finds that he has been habitually committing, or attempting to commit, or abetting the commission of, that offence or any other offence under this Act and the Court is of opinion that it is necessary or desirable to require that person to execute a bond for good behaviour, such court may at the time of passing the sentence on the person order him to execute a bond for a sum proportionate to his means with or without sureties for his good behaviour during such period not exceeding three years as it thinks fit.

(2) If the conviction is set aside on appeal or otherwise the bond so executed shall become void.

(3) An order under this section may also be made by an Appellate Court or by the High Court when exercising its powers of revision.

(4) When a magistrate receives information from the police or otherwise that any person within the local limits of his jurisdiction habitually commits, or attempts to commit, or abets the commission of, any offence under this Act, such magistrate may require such person to show cause why he should not be ordered to execute a bond with sureties for his good behaviour for such period not exceeding three years as the magistrate thinks fit and thereupon the provisions of sections 112 to 126 of the Code of Criminal Procedure, 1898, shall apply in such a case.

5 of 1898

Special
police officer
and advisory
body.

13. (1) There shall be for each area to be specified by the State Government in this behalf a special police officer appointed by or on behalf of that Government for dealing with offences under this Act in that area.

(2) The special police officer shall not be below the rank of—

(a) an Assistant Commissioner of Police in the presidency towns of Madras and Calcutta;

(b) a Superintendent of Police in the presidency town of Bombay; and

(c) a Deputy Superintendent of Police elsewhere.

(3) For the efficient discharge of his functions in relation to offences under this Act—

(a) the special police officer of an area shall be assisted by such number of subordinate police officers (including women police officers wherever practicable) as the State Government may think fit; and

(b) the State Government may associate with the special police officer a non-official advisory body consisting of not more than five leading social welfare workers of that area (including women social welfare workers wherever practicable) to advise him on questions of general importance regarding the working of this Act.

5 of 1898. 14. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, any offence punishable under this Act shall be deemed to be a cognizable offence within the meaning of that Code: Offences to be cognizable.

Provided that, notwithstanding anything contained in that Code,—

(i) arrest without warrant may be made only by the special police officer or under his direction or guidance, or subject to his prior approval;

(ii) when the special police officer requires any officer subordinate to him to arrest without warrant otherwise than in his presence any person for an offence under this Act, he shall give that subordinate officer an order in writing, specifying the person to be arrested and the offence for which the arrest is being made; and the latter officer before arresting the person shall inform him of the substance of the order and, on being required by such person, show him the order;

(iii) any police officer not below the rank of inspector specially authorised by the special police officer may, if he has reason to believe that on account of delay involved in obtaining the order of the special police officer, any valuable evidence relating to any offence under this Act is likely to be destroyed or concealed, or the person who has committed or is suspected to have committed the offence is likely to escape, or if the name and address of such a person is unknown or there is reason to suspect that a false name or address has been given, arrest the person concerned without such order, but in such a case he shall report, as soon as may be, to the special police officer the arrest and the circumstances in which the arrest was made.

15. (1) Notwithstanding anything contained in any other law for the time being in force, whenever the special police officer has reasonable grounds for believing that an offence punishable under this Act has been or is being committed in respect of a woman or girl living in any premises, and that search of the premises with warrant cannot be made without undue delay, such officer may, after recording the grounds of his belief, enter and search such premises without a warrant.

Search without warrant.

(2) Before making a search under sub-section (1), the special police officer shall call upon two or more respectable inhabitants (at least one of whom shall be a woman) of the locality in which the place to be searched is situate, to attend and witness the search, and may issue an order in writing to them or any of them so to do.

(3) Any person who, without reasonable cause, refuses or neglects to attend and witness a search under this section, when called upon to do so by an order in writing delivered or tendered to him, shall be deemed to have committed an offence under section 187 of the Indian Penal Code.

45 of 1860

(4) The special police officer entering any premises under sub-section (1) shall be entitled to remove therefrom any girl if in his opinion she is under the age of twenty-one years and is carrying on or is being made to carry on, or attempts are being made to make her carry on, prostitution.

(5) The special police officer, after removing the girl under sub-section (4) shall forthwith produce her before the appropriate magistrate.

(6) The special police officer and other persons taking part in, or attending, and witnessing a search shall not be liable to any civil or criminal proceedings against them in respect of anything lawfully done in connection with, or for the purpose of, the search.

Rescue of
girl.

16. (1) Where a magistrate has reason to believe, from information received from the police or otherwise, that a girl apparently under the age of twenty-one years, is living, or is carrying on, or is being made to carry on prostitution, in a brothel, he may direct the special police officer to enter such brothel, and to remove therefrom such girl and produce her before him.

(2) The special police officer after removing the girl shall forthwith produce her before the magistrate issuing the order.

Intermediate
custody of
girls remov-
ed under
section 15 or
rescued
under sec-
tion 16.

17. (1) When the special police officer removing a girl under sub-section (4) of section 15 or rescuing a girl under sub-section (1) of section 16, fails to produce her immediately before the magistrate as required by sub-section (5) of section 15 or sub-section (2) of section 16, he shall forthwith produce her before the nearest magistrate of any class, who shall pass such orders as he deems proper for her safe custody until she is produced before the appropriate magistrate.

(2) When the girl is produced before the appropriate magistrate he shall, after giving the girl an opportunity of being heard, cause an enquiry to be made as to the correctness of the information received under sub-section (1) of section 16 and the age of the girl and, if satisfied that the information received is correct and the girl is under the age of twenty-one years, he may, subject to the provisions of the next sub-section, make an order that such girl be detained for such period as may be specified in the order, in a protective home or such other custody as he, for reasons to be recorded in writing, shall consider suitable:

Provided that such custody shall not be that of a person, or body of persons, of a religious persuasion different from that of the girl.

(3) In discharging his functions under sub-section (2), a magistrate may summon a panel of five respectable persons, three of whom shall wherever practicable be women, to assist him; and may for this purpose keep a list of experienced social welfare workers, particularly women social welfare workers, in the field of suppression of immoral traffic in women and girls.

(4) Against every order under sub-section (2) an appeal shall lie to the Sessions Judge whose decision on such appeal shall be final.

18. (1) A magistrate may, on receipt of information from the police or otherwise, that any house, room, place or any portion thereof within a distance of two hundred yards of any public place referred to in sub-section (1) of section 7, is being run or used as a brothel by any person, or is being used by prostitutes for carrying on their trade, issue notice on the owner, lessor or landlord of such house, room, place or portion or the agent of the owner, lessor or landlord or on the tenant, lessee, occupier of, or any other person in charge of such house, room, place, or portion, to show cause within seven days of the receipt of the notice why the same should not be attached for improper user thereof; and if, after hearing the person concerned, the magistrate is satisfied that the house, room, place or portion is being used as a brothel or for carrying on prostitution, then the magistrate may pass orders—

Closure of
brothels and
eviction of
offenders
from the
premises.

(a) directing eviction of the occupier within seven days of the passing of the order from the house, room, place, or portion;

(b) directing that before letting it out during the period of one year immediately after the passing of the order, the owner, lessor or landlord or the agent of the owner, lessor or landlord shall obtain the previous approval of the magistrate:

Provided that, if the magistrate finds that the owner, lessor or landlord as well as the agent of the owner, lessor or landlord, was

innocent of the improper user of the house, room, place or portion, he may cause the same to be restored to the owner, lessor or landlord, or the agent of the owner, lessor or landlord, with a direction that the house, room, place or portion shall not be leased out, or otherwise given possession of, to or for the benefit of the person who was allowing the improper user therein.

(2) A court convicting a person of any offence under section 3 or section 7 may pass orders under sub-section (1), without further notice to such person to show cause as required in that sub-section.

(3) Orders passed by the magistrate or court under sub-section (1) or sub-section (2) shall not be subject to appeal and shall not be stayed or set aside by the order of any court, civil or criminal, and the said orders shall cease to have validity after the expiry of one year:

Provided that where a conviction under section 3 or section 7 is set aside on appeal on the ground that such house, room, place or any portion thereof is not being run or used as a brothel or is not being used by prostitutes for carrying on their trade, any order passed by the trial court under sub-section (1) shall also be set aside.

(4) Notwithstanding anything contained in any other law for the time being in force, when a magistrate passes an order under sub-section (1), or a court passes an order under sub-section (2), any lease or agreement under which the house, room, place or portion is occupied at the time shall become void and inoperative.

(5) When an owner, lessor or landlord, or the agent of such owner, lessor or landlord fails to comply with a direction given under clause (b) of sub-section (1) he shall be punishable with fine which may extend to five hundred rupees or when he fails to comply with a direction under the proviso to that sub-section, he shall be deemed to have committed an offence under clause (b) of sub-section (2) of section 3 or clause (c) of sub-section (2) of section 7, as the case may be, and punished accordingly.

Application
for being
kept in a
protective
home.

19. (1) A woman or girl who is carrying on, or is being made to carry on, prostitution, may make an application to the magistrate within the local limits of whose jurisdiction she is carrying on, or is being made to carry on, prostitution, for an order that she may be kept in a protective home.

(2) If after hearing the applicant and making such inquiry as he may consider necessary, the magistrate is satisfied that an order

should be made under this section, then, he shall make an order, for reasons to be recorded, that the applicant be kept in a protective home for such period as may be specified in the order.

20. (1) A magistrate on receiving information that any woman or girl residing in or frequenting any place within the local limits of his jurisdiction is a prostitute, may record the substance of the information received and issue a notice to such woman or girl requiring her to appear before the magistrate and show cause why she should not be required to remove herself from the place and be prohibited from re-entering it. Removal of prostitute from any place.

(2) Every notice issued under sub-section (1) shall be accompanied by a copy of the record aforesaid, and the copy shall be served along with the notice on the woman or girl against whom the notice is issued.

(3) The magistrate shall, after the service of the notice referred to in sub-section (2), proceed to inquire into the truth of the information received, and after giving the woman or girl an opportunity of adducing evidence, take such further evidence as he thinks fit, and if upon such inquiry it appears to him that such woman or girl is a prostitute and that it is necessary in the interests of the general public that such woman or girl should be required to remove herself therefrom and be prohibited from re-entering the same, the magistrate shall, by order in writing communicated to the woman or girl in the manner specified therein, require her after a date (to be specified in the order) which shall not be less than seven days from the date of the order, to remove herself from the place to such place whether within or without the local limits of his jurisdiction, by such route or routes and within such time as may be specified in the order and also prohibit her from re-entering the place without the permission in writing of the magistrate having jurisdiction over such place.

(4) Whoever—

(a) fails to comply with an order issued under this section, within the period specified therein, or whilst an order prohibiting her from re-entering a place without permission is in force, re-enters the place without such permission, or

(b) knowing that any woman or girl has, under this section, been required to remove herself from the place and has not obtained the requisite permission to re-enter it, harbours or conceals such woman or girl in the place,

shall be punishable with fine which may extend to two hundred rupees and in the case of a continuing offence with an additional fine which may extend to twenty rupees for every day after the first during which she or he has persisted in the offence.

Protective
homes.

21. (1) The State Government may in its discretion establish as many protective homes under this Act as it thinks fit and such homes, when established, shall be maintained in such manner as may be prescribed.

(2) No person or no authority other than the State Government shall, after the commencement of this Act, establish or maintain any protective home except under and in accordance with the conditions of, a licence issued under this section by the State Government.

(3) The State Government may, on application made to it in this behalf by a person or authority, issue to such person or authority a licence in the prescribed form for establishing and maintaining or as the case may be, for maintaining a protective home and a licence so issued may contain such conditions as the State Government may think fit to impose in accordance with the rules made under this Act:

Provided that any such condition may require that the management of the protective home shall, wherever practicable, be entrusted to women:

Provided further that a person or authority maintaining any protective home at the commencement of this Act shall be allowed a period of six months from such commencement to make an application for such licence.

(4) Before issuing a licence the State Government may require such officer or authority as it may appoint for this purpose, to make a full and complete investigation in respect of the application received in this behalf and report to it the result of such investigation and in making any such investigation the officer or authority shall follow such procedure as may be prescribed.

(5) A licence, unless sooner revoked, shall remain in force for such period as may be specified in the licence and may, on application made in this behalf at least thirty days before the date of its expiration, be renewed for a like period.

(6) No licence issued or renewed under this Act shall be transferable.

(7) Where any person or authority to whom a licence has been granted under this Act or any agent or servant of such person or authority commits a breach of any of the conditions thereof or any of the provisions of this Act or of any of the rules made under this Act, or where the State Government is not satisfied with the condition, management or superintendence of any protective home, the State Government may, without prejudice to any other penalty which may have been incurred under this Act, for reasons to be recorded, revoke the licence by order in writing:

Provided that no such order shall be made until an opportunity is given to the holder of the licence to show cause why the licence shall not be revoked.

(8) Where a licence in respect of a protective home has been revoked under the foregoing sub-section such protective home shall cease to function from the date of such revocation.

(9) Subject to any rules that may be made in this behalf, the State Government may also vary or amend any licence issued or renewed under this Act.

(10) Whoever establishes or maintains a protective home except in accordance with the provisions of this section, shall be punishable in the case of a first offence with fine which may extend to one thousand rupees and in the case of second or subsequent offence with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

22. No court, inferior to that of a magistrate as defined in clause (c) of section 2 shall try any offence under section 3, section 4, section 5, section 6, section 7 or section 8.

23. (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for—

(a) the notification of any place as a public place;

(b) the placing in custody of women and girls released under sub-section (1) of section 10 or for whose safe custody orders have been passed under sub-section (1) of section 17 and their maintenance;

(c) the detention and keeping in protective homes of women and girls under sub-section (2) of section 10, sub-section (2) of section 17 and section 19 and their maintenance;

(d) the carrying out of the provisions of section 11 regarding notification of residence or change of or absence from residence by released convicts;

(e) the delegation of authority to appoint the special police officer under sub-section (1) of section 13;

(f) the carrying into effect of the provisions of section 18;

(g) (i) the establishment, maintenance, management and superintendence of protective homes and the appointment, powers and duties of persons employed in such homes;

(ii) the form in which an application for a licence may be made and the particulars to be contained in such application;

(iii) the procedure for the issue or renewal of a licence, the time within which such licence shall be issued or renewed and the procedure to be followed in making a full and complete investigation in respect of an application for a licence;

(iv) the form of a licence and the conditions to be specified therein;

(v) the manner in which the accounts of a protective home shall be maintained and audited;

(vi) the maintenance of registers and statements by a licensee and the form of such registers and statements;

(vii) the care, treatment, maintenance, training, instruction, control and discipline of the inmates of protective homes;

(viii) the visits to and communication with such inmates;

(ix) the temporary detention of women and girls sentenced to detention in protective homes until arrangements are made for sending them to such homes;

(x) the transfer of a woman or girl from one protective home to another;

(xi) the transfer in pursuance of an order of the court from a protective home to a prison of a woman or girl found to be incorrigible or exercising bad influence upon other inmates of

the protective home and the period of her detention in such prison;

(xii) the transfer to a protective home of women or girls sentenced under section 7 or section 8 and the period of their detention in such home;

(xiii) the discharge of inmates from a protective home either absolutely or subject to conditions, and their arrest in the event of breach of such conditions;

(xiv) the grant of permission to inmates to absent themselves for short periods;

(xv) the inspection of protective homes and other institutions in which women and girls may be kept, detained and maintained;

(h) any other matter which has to be, or may be, prescribed.

(3) In making any rule under clause (d) or clause (g) of sub-section (2) the State Government may provide that a breach thereof shall be punishable with fine which may extend to two hundred and fifty rupees.

(4) All rules made under this Act shall, as soon as may be after they are made, be laid before the State Legislature.

97. 24. Nothing in this Act shall be construed to be in derogation of the provisions of the Reformatory Schools Act, 1897, or any State Act enacted in modification of the said Act or otherwise, relating to juvenile offenders. Act not to be in derogation of certain other Acts.

25. (1) As from the date of the coming into force in any State of the provisions other than section 1 of this Act, all State Acts relating to suppression of immoral traffic in women and girls or to the prevention of prostitution, in force in that State immediately before such date shall stand repealed. Repeal and Savings.

(2) Notwithstanding the repeal by this Act of any State Act referred to in sub-section (1), anything done or any action taken (including any direction given, any register, rule or order made, any restriction imposed) under the provisions of such State Act shall in so far as such thing or action is not inconsistent with the provisions of this Act be deemed to have been done or taken under the provisions

of this Act as if the said provisions were in force when such thing was done or such action was taken and shall continue in force accordingly until superseded by any thing done or any action taken under this Act.

Explanation.—In this section the expression 'State Act' includes a 'Provincial Act'.

THE WOMEN'S AND CHILDREN'S INSTITUTIONS (LICENSING) ACT, 1956

No. 105 OF 1956

[30th December, 1956]

An Act to provide for the licensing of institutions for women and children and for matters incidental thereto.

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows:—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Women's and Children's Institutions (Licensing) Act, 1956.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force in a State on such date as the State Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "child" means a boy or girl who has not completed the age of eighteen years;

(b) "institution" means an institution established and maintained for the reception, care, protection and welfare of women or children;

(c) "licensing authority" means the State Government or such officer or authority as may be prescribed;

(d) "prescribed" means prescribed by rules made by the State Government under this Act;

(e) "woman" means a female who has completed the age of eighteen years.

3. After the commencement of this Act, no person shall establish or maintain an institution except under and in accordance with the conditions of a licence granted under this Act. Licensing of institutions.

4. Every person desiring to establish an institution shall make an application to the licensing authority in such form and containing such particulars as may be prescribed: Application for licence.

Provided that a person maintaining an institution at the commencement of this Act shall be allowed a period of three months from such commencement to make an application for a licence.

5. (1) On receipt of an application under section 4, the licensing authority, after making such inquiry as it considers necessary, shall, by order in writing, either grant the licence or refuse to grant it. Grant of licence.

(2) Where a licence is refused, the grounds for such refusal shall be communicated to the applicant in the prescribed manner.

(3) A licence, unless sooner revoked, shall remain in force for such period as may be specified in the licence and may, on application made in this behalf sixty days before the date of its expiration, be renewed for such period as the licensing authority may deem proper:

Provided that a licence may be renewed on an application made within sixty days before the date of its expiration if the licensing authority is satisfied that there was sufficient cause for not making the application earlier.

(4) Every licence granted under this Act shall be in the prescribed form and shall be subject to such conditions as may be prescribed:

Provided that any such condition may require that the management of an institution shall, wherever practicable, be entrusted to women.

(5) No fee shall be charged for the grant of a licence under this Act.

6. A licence granted under this Act shall not be transferable.

Licence not transferable.

Revocation
of licence.

7. (1) Where any person to whom a licence has been granted under this Act, or any agent or servant of such person commits a breach of any of the conditions thereof, or any of the provisions of this Act, or any of the rules made thereunder, or where the licensing authority is not satisfied with the condition, management or superintendence of an institution, the licensing authority may, without prejudice to any other penalty which may have been incurred under this Act, for reasons to be recorded, revoke the licence by order in writing:

Provided that no such order shall be made until an opportunity is given to the holder of the licence to show cause why the licence should not be revoked.

(2) Where a licence in respect of an institution has been revoked under the foregoing sub-section, such institution shall cease to function from the date of such revocation:

Provided that where an appeal lies under section 8 against the order of revocation, such institution shall cease to function—

(a) where no such appeal has been preferred, immediately on the expiration of the period prescribed for the filing of such appeal;

(b) where such appeal has been preferred but the order of revocation has been upheld, from the date of the appellate order.

(3) On the revocation of a licence in respect of an institution, the licensing authority may direct that any woman or child who is an inmate of such institution on the date of such revocation shall be—

(a) restored to the custody of her or his parent, husband or lawful guardian, as the case may be; or

(b) transferred to another institution.

Appeals.

8. (1) Where the licensing authority is other than the State Government, any person aggrieved by an order of the licensing authority refusing to grant a licence or revoking a licence, may within such period as may be prescribed, prefer an appeal to the State Government against such refusal or revocation.

(2) The order of the State Government on such appeal and subject only to such order, the order of the licensing authority shall be final.

Penalty.

9. Any person who contravenes any of the provisions of this Act or of any rule made thereunder, or any of the conditions of a licence shall be punishable with imprisonment for a term which may

extend to three months, or with fine which may extend to two hundred and fifty rupees, or with both.

10. Nothing in this Act shall apply to—

Act not to
apply to cer-
tain institu-
tions.

(a) hostels, or boarding houses attached to, or controlled or recognised by educational institutions; or

(b) any protective home established under the Suppression of Immoral Traffic in Women and Girls Act, 1956.

11. (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to
make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the form of application for licence and the particulars to be contained therein;

(b) the form of licence and the conditions subject to which such licence may be granted;

(c) the management of institutions;

(d) the reception, care, protection and welfare of women and children in institutions, including all matters relating to their diet, clothing, accommodation, training and general conduct;

(e) the inspection of institutions;

(f) the maintenance of registers and account and submission of returns and audit of such accounts;

(g) the discharge from institutions of women and children and their transfer from one institution to another;

(h) the manner of filing appeals under this Act and the time within which such appeals shall be filed;

(i) the manner of service of orders and notices under this Act;

(j) any other matter which is to be or may be prescribed.

12. (1) As from the date of commencement in any State of this Act, any State Act corresponding to this Act in force in that State immediately before such commencement shall stand repealed.

Repeal and
savings.

(2) Notwithstanding the repeal by this Act of any State Act referred to in sub-section (1), anything done or any action taken (including any direction given, any register, rule or order made

or any restriction imposed) under the provisions of such State Act shall in so far as such thing or action is not inconsistent with the provisions of this Act be deemed to have been done or taken under the provisions of this Act as if the said provisions were in force when such thing was done or such action was taken and shall continue in force accordingly until superseded by anything done or any action taken under this Act.

Explanation.—In this section, the expression “State Act” includes a “Provincial Act”.

K. V. K. SUNDARAM,
Secy. to the Govt. of India.